



February 23, 2016

ENGROSSED SENATE BILL No. 350

DIGEST OF SB 350 (Updated February 22, 2016 12:21 pm - DI 77)

Citations Affected: IC 10-13; IC 16-18; IC 16-27.

Synopsis: Criminal history background checks for home health workers. Requires a home health agency or personal services agency to obtain a national criminal history background check or an expanded criminal history check on employees. (Current law requires a limited criminal history record unless certain circumstances exist that would require a national criminal history background check or an expanded criminal history check.)

Effective: July 1, 2016.

Raatz, Brown L, Randolph Lonnie M
(HOUSE SPONSORS — BEUMER, THOMPSON)

January 7, 2016, read first time and referred to Committee on Health & Provider Services.
January 21, 2016, reported favorably — Do Pass.
January 25, 2016, read second time, ordered engrossed. Engrossed.
January 26, 2016, read third time, passed. Yeas 49, nays 0.

HOUSE ACTION

February 9, 2016, read first time and referred to Committee on Public Health.
February 22, 2016, amended, reported — Do Pass.

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February 23, 2016

Second Regular Session 119th General Assembly (2016)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2015 Regular Session of the General Assembly.

ENGROSSED SENATE BILL No. 350

A BILL FOR AN ACT to amend the Indiana Code concerning health.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 10-13-3-36, AS AMENDED BY P.L.117-2015,
2 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2016]: Sec. 36. (a) The department may not charge a fee for
4 responding to a request for the release of a limited criminal history
5 record if the request is made by a nonprofit organization:
6 (1) that has been in existence for at least ten (10) years; and
7 (2) that:
8 (A) has a primary purpose of providing an individual
9 relationship for a child with an adult volunteer if the request
10 is made as part of a background investigation of a prospective
11 adult volunteer for the organization;
12 ~~(B) is a home health agency licensed under IC 16-27-1;~~
13 ~~(C) (B)~~ (B) is a community intellectual disability and other
14 developmental disabilities center (as defined in IC 12-7-2-39);
15 ~~(D) (C)~~ (C) is a supervised group living facility licensed under
16 IC 12-28-5;
17 ~~(E) (D)~~ (D) is an area agency on aging designated under

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1 IC 12-10-1;

2 ~~(F)~~ (E) is a community action agency (as defined in
3 IC 12-14-23-2);

4 ~~(G)~~ (F) is the owner or operator of a hospice program licensed
5 under IC 16-25-3; or

6 ~~(H)~~ (G) is a community mental health center (as defined in
7 IC 12-7-2-38).

8 (b) Except as provided in subsection (d), the department may not
9 charge a fee for responding to a request for the release of a limited
10 criminal history record made by the department of child services or the
11 division of family resources if the request is made as part of a
12 background investigation of an applicant for a license under IC 12-17.2
13 or IC 31-27.

14 (c) The department may not charge a fee for responding to a request
15 for the release of a limited criminal history if the request is made by a
16 school corporation, special education cooperative, or nonpublic school
17 (as defined in IC 20-18-2-12) as part of a background investigation of
18 a prospective or current employee or a prospective or current adult
19 volunteer for the school corporation, special education cooperative, or
20 nonpublic school.

21 (d) As used in this subsection, "state agency" means an authority, a
22 board, a branch, a commission, a committee, a department, a division,
23 or another instrumentality of state government, including the executive
24 and judicial branches of state government, the principal secretary of the
25 senate, the principal clerk of the house of representatives, the executive
26 director of the legislative services agency, a state elected official's
27 office, or a body corporate and politic, but does not include a state
28 educational institution. The department may not charge a fee for
29 responding to a request for the release of a limited criminal history if
30 the request is made:

31 (1) by a state agency; and

32 (2) through the computer gateway that is administered by the
33 office of technology established by IC 4-13.1-2-1.

34 (e) The department may not charge a fee for responding to a request
35 for the release of a limited criminal history record made by the Indiana
36 professional licensing agency established by IC 25-1-5-3 if the request
37 is:

38 (1) made through the computer gateway that is administered by
39 the office of technology; and

40 (2) part of a background investigation of a practitioner or an
41 individual who has applied for a license issued by a board (as
42 defined in IC 25-1-9-1).



(f) The department may not charge a church or religious society a fee for responding to a request for the release of a limited criminal history record if:

(1) the church or religious society is a religious organization exempt from federal income taxation under Section 501 of the Internal Revenue Code;

(2) the request is made as part of a background investigation of a prospective or current employee or a prospective or current adult volunteer; and

(3) the employee or volunteer works in a nonprofit program or ministry of the church or religious society, including a child care ministry registered under IC 12-17.2-6.

(g) The department may not charge the school of education of a public or private postsecondary educational institution a fee for responding to a request for the release of a limited criminal history record if the request is made as part of a background investigation of a student before or after the student begins the student's field or classroom experience. However, the department may charge the student a fee for responding to a request for the release of a limited criminal history record.

SECTION 2. IC 16-18-2-204.5 IS REPEALED [EFFECTIVE JULY 1, 2016]. Sec. 204.5: "~~Limited criminal history~~", for purposes of IC 16-27-2, has the meaning set forth in IC 16-27-2-1.5.

SECTION 3. IC 16-27-2-0.5, AS ADDED BY P.L.84-2010, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 0.5. As used in this chapter, "expanded criminal history check" means a criminal history check of an individual, obtained through a private agency; that includes the following:

(1) A search of the records maintained by all counties in Indiana in which the individual who is the subject of the background check resided;

(2) A search of the records maintained by all counties or similar governmental units in another state; if the individual who is the subject of the background check resided in another state;

has the meaning set forth in IC 20-26-2-1.5.

SECTION 4. IC 16-27-2-1.5 IS REPEALED [EFFECTIVE JULY 1, 2016]. Sec. 1.5: As used in this chapter, "~~limited criminal history~~" means the limited criminal history from the Indiana central repository for criminal history information under IC 10-13-3.

SECTION 5. IC 16-27-2-4, AS AMENDED BY P.L.84-2010, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 4. (a) A person who operates a home health



1 agency under IC 16-27-1 or a personal services agency under
 2 IC 16-27-4 shall apply, not more than three (3) business days after the
 3 date that an employee begins to provide services in a patient's
 4 temporary or permanent residence, for a copy of the employee's ~~limited~~
 5 **national criminal history unless the person is required to obtain a**
 6 **national criminal history background check or an expanded criminal**
 7 **history check under subsection (b) or (c): background check or**
 8 **expanded criminal history check.**

9 (b) If a person who operates a home health agency under IC 16-27-1
 10 or a personal services agency under IC 16-27-4 determines an
 11 employee lived outside Indiana at any time during the two (2) years
 12 immediately before the date the individual was hired by the home
 13 health agency or personal services agency, the home health agency or
 14 personal services agency shall apply, not more than three (3) business
 15 days after the date that an employee begins to provide services in a
 16 patient's temporary or permanent residence, for the employee's national
 17 criminal history background check or expanded criminal history check.

18 (c) If, more than three (3) days after an employee begins providing
 19 services in a patient's temporary or permanent residence, a person who
 20 operates a home health agency under IC 16-27-1 or a personal services
 21 agency under IC 16-27-4 discovers the employee lived outside Indiana
 22 during the two (2) years immediately before the date the individual was
 23 hired, the agency shall apply, not more than three (3) business days
 24 after the date the agency learns the employee lived outside Indiana, for
 25 the employee's national criminal history background check or expanded
 26 criminal history check.

27 (d) (b) A home health agency or personal services agency may not
 28 employ a person to provide services in a patient's or client's temporary
 29 or permanent residence for more than three (3) business days without
 30 applying for

31 (1) a national criminal history background check or an expanded
 32 criminal history check. as required under subsection (b) or (c); or

33 (2) a ~~limited criminal history~~ as required by subsection (a);

34 SECTION 6. IC 16-27-2-5, AS AMENDED BY P.L.214-2013,
 35 SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 36 JULY 1, 2016]: Sec. 5. (a) Except as provided in subsection (b), a
 37 person who operates a home health agency under IC 16-27-1 or a
 38 personal services agency under IC 16-27-4 may not employ a person to
 39 provide services in a patient's or client's temporary or permanent
 40 residence if that person's ~~limited criminal history~~, national criminal
 41 history background check or expanded criminal history check indicates
 42 that the person has been convicted of any of the following:



- 1 (1) Rape (IC 35-42-4-1).
- 2 (2) Criminal deviate conduct (IC 35-42-4-2) (repealed).
- 3 (3) Exploitation of an endangered adult (IC 35-46-1-12).
- 4 (4) Failure to report battery, neglect, or exploitation of an
- 5 endangered adult (IC 35-46-1-13).
- 6 (5) Theft (IC 35-43-4), if the conviction for theft occurred less
- 7 than ten (10) years before the person's employment application
- 8 date.
- 9 (6) A felony that is substantially equivalent to a felony listed in:
- 10 (A) subdivisions (1) through (4); or
- 11 (B) subdivision (5), if the conviction for theft occurred less
- 12 than ten (10) years before the person's employment application
- 13 date;
- 14 for which the conviction was entered in another state.
- 15 (b) A home health agency or personal services agency may not
- 16 employ a person to provide services in a patient's or client's temporary
- 17 or permanent residence for more than twenty-one (21) calendar days
- 18 without receipt of that person's ~~limited criminal history~~; national
- 19 criminal history background check or expanded criminal history check
- 20 required by section 4 of this chapter, unless the state police department,
- 21 the Federal Bureau of Investigation under IC 10-13-3-39, or the private
- 22 agency providing the expanded criminal history check is responsible
- 23 for failing to provide the person's ~~limited criminal history~~; national
- 24 criminal history background check or expanded criminal history check
- 25 to the home health agency or personal services agency within the time
- 26 required under this subsection.



COMMITTEE REPORT

Madam President: The Senate Committee on Health & Provider Services, to which was referred Senate Bill No. 350, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is to SB 350 as introduced.)

MILLER PATRICIA, Chairperson

Committee Vote: Yeas 9, Nays 0

COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Health, to which was referred Senate Bill 350, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 3, delete lines 21 through 23.

Page 3, delete lines 27 through 36, begin a new paragraph and insert:

"SECTION 3. IC 16-27-2-0.5, AS ADDED BY P.L.84-2010, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 0.5. As used in this chapter, "expanded criminal history check" ~~means a criminal history check of an individual obtained through a private agency, that includes the following:~~

(1) ~~A search of the records maintained by all counties in Indiana in which the individual who is the subject of the background check resided;~~

(2) ~~A search of the records maintained by all counties or similar governmental units in another state, if the individual who is the subject of the background check resided in another state;~~

has the meaning set forth in IC 20-26-2-1.5."

Page 4, line 8, after "background check" delete "." and insert "**or expanded criminal history check.**".

Page 4, line 31, delete ".".

Page 4, line 31, reset in roman "or an expanded".

Page 4, line 32, reset in roman "criminal history check".

Page 4, line 32, after "check" insert ".".

Page 4, line 41, reset in roman "or expanded criminal history check".

Page 5, line 19, reset in roman "or expanded criminal history".

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Page 5, line 19, delete "check," and insert "check".

Page 5, line 20, after "department" insert ",."

Page 5, line 21, before "the Federal" delete "or".

Page 5, line 21, after "IC 10-13-3-39" insert ",."

Page 5, line 21, reset in roman "or the".

Page 5, line 22, reset in roman "private agency providing the expanded criminal check".

Page 5, line 24, reset in roman "or expanded criminal".

Page 5, line 25, reset in roman "history check".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 350 as printed January 22, 2016.)

KIRCHHOFFER

Committee Vote: yeas 8, nays 0.

